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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/736,519 | 12/13/2000 | Yukiko Morioka | WAM-03301 | 8886 |

26339 7590 10/04/2002

PATENT GROUP
CHOATE, HALL & STEWART
EXCHANGE PLACE, 53 STATE STREET
BOSTON, MA 02109

EXAMINER

GARRETT, DAWN L

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 10/04/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Applicati n N . 09/736,519 | Applicant(s) MORIOKA ET AL. | |
| | Examiner Dawn Garrett | Art Unit 1774 | |

-- The MAILING DATE of this communication appears on the cover sheet with the corresp ndence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-103 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-103 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action is in response to the amendment, paper no. 6, mailed June 7, 2002. Claims 1 and 2 were amended. Claims 1-103 are pending.
2. The objection to the claims set forth in paper no. 5, paragraph 1, is withdrawn.
3. The rejection of claims 1-6, 19-22, 35-40, 53-56, 69-74, 87-90, and 103 under 35 USC 102(b) as being anticipated by Tokailin et al. (US 5,126,214) is maintained for the reasons of record.
4. The rejection of claims 7-12, 23-28, 41-46, 57-62, 75-80, and 91-96 under 35 USC 103(a) as being unpatentable over Tokailin et al. (US 5,126,214) is maintained for the reasons of record.
5. The rejection of claims 13-18, 29-34, 47-52, 63-68, 81-86, and 97-102 under 35 USC 103(a) as being unpatentable over Tokailin et al. (US 5,126,214) in view of Hitoshi et al. (JP 11-074079) is maintained for the reasons of record.

Claim Rejections - 35 USC § 112

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6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-103 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. The amendment to claim 1 appears to have omitted words. The phrase in claim 1, "from spectrum any one of fluorescent peak positions" is unclear. It is not clear if this

phrase should read "from a spectrum of any one of the fluorescent peak positions" or if "spectrum" in the phrase refers back to the first usage of the word "spectrum" in the claim. Clarification and correction are required.

Response to Arguments

9. Applicant's arguments filed June 7, 2002 have been fully considered but they are not persuasive. With regard to the rejection over Tokailin, applicants argue on page 6 of the response "the cited reference does not contain any teaching with regard to the light emitting zone having at least one peak that is different from the separate compounds of the mixture". The examiner submits a mixture of compounds would inherently give a different spectrum than individual compounds. Tokailin does teach a combination of two emitting materials (see col. 3, lines 13-48 and col. 5, line 18 to col. 6, line 4). Applicant has not shown the compounds of Tokailin do not have the properties of the instant claims. Applicant further argues "the cited reference does not contain any suggestion that the light emitting region is a mixture, but rather discloses that there are two separate layers". The examiner submits that applicant has claimed a "light emitting zone". Tokailin's use of two materials as light emitting material is deemed to read upon the instant claim. The Merriam-Webster's Collegiate Dictionary defines "mixture" as "a portion of matter consisting of two or more components in varying proportions that retain their own properties." The examiner maintains the rejection of the base claim over Tokailin; the rejections under 35 USC 103 are also respectfully maintained.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (703)305-

0788. The examiner can normally be reached Monday through Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached at (703) 308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Art Unit: 1774

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.



D.G.

October 1, 2002

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

